

Crl.R.No. 800 of 2002

[1]

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Crl.R.No. 800 of 2002
Date of Decision 22.03.2007**

Jafar Khan alias Budhu

....Petitioner

Versus

State of Punjab

...Respondent

Coram: Hon'ble Mr. Justice A.N.Jindal.

Present: Mr. S.K.Bawa, Advocate
for Mr. S.K. Sharma, Advocate
for the petitioner.

Mr. GPS Gill, Assistant Advocate General, Punjab

A.N.Jindal, J. (Oral)

This revision petition is directed against the judgment and order of conviction and sentence dated 26.3.2002 passed by the Additional Sessions Judge, Patiala dismissing the appeal of the appellant Jafar Khan @ Budhu and affirming the judgment and order dated 25.5.2001 passed by the learned Judicial Magistrate, 1st Class, Patiala vide which accused Jafar Khan @ Budhu has been convicted under Section 325 of the Indian Penal Code and sentenced him to undergo for rigorous imprisonment for one year and to pay fine of Rs. 200/-.

Brief facts of the case are that Leela Singh lodged a DDR at Sr. No. 8 at 9.10 a.m. wherein he disclosed that he was supplying loose sand and bricks etc. on his tractor-trolley. On 1.6.1997 at about 8.30 a.m. when he was starting his tractor, the wife of Chhaju Khan came to him and asked him that he had supplied the loose sand but not the bricks. At this

altercation took place. The sister-in-law (complainant's brother's wife) came out and asked her as to why she was abusing. At this, her sons Kala (Hakam Khan), Wazir (Wazir Khan) and Budhu (Jafar Khan) came there and started grappling with the complainant and his sister-in-law and also abused them. Budhu accused gave a blow on his nose and then he was thrown in the drain.

Resultantly, the complainant suffered injury on the left leg. On the receipt of X-ray report, FIR No. 145 dated 25.6.1997 was registered against all the four accused, namely, Jafar Khan, Wazir Khan, Chhoti and Hakam Khan. The sufficient evidence has been led by the prosecution before the trial Court. Resultantly, the trial ended in conviction.

On appeal Additional Sessions Judge, Patiala while acquitting the accused Wazir Khan, Chhoti and Hakam Khan (Kala), convicted Jafar Khan alone.

Having perused the record of the case, it transpires that according to PW -2 Dr. Harminder Kaur Sodhi who medico legally examined Leela Singh, found the following injuries:

- “1. ½ x ½ cm lacerated wound in the midline and on the base of nose, depth to be probed by the Surgeon. Clotted blood present in the vicinity and fresh bleeding present on cleansing with the swab, Clotted blood was found present in both the nostrils. Part is tender. Advised X-ray.*
- 2. ½ x ½ cm abrasion on the left lower leg on its anterior aspect 14 cms below the knee joint. Oozing of blood present.”*

The medical evidence stands corroborated by the complainant.

The trial Court rightly acquitted Wazir Khan, Chhoti and Kala (Hakam Khan). Kala (Hakam Khan) is totally handicapped and he cannot stand on his legs as admitted by PW-4 Leela Singh and PW-5 Charanjit Kaur. The participation of the accused Wazir Khan and Chhoti is also doubtful. However, no meaningful arguments could be advanced to shatter the medical evidence as well as ocular version coming from the mouth of the complainant- PW-4 Leela Singh and PW-5 Charanjit Kaur. Therefore, the conviction as ordered by the appellate Court stands affirmed.

Now coming to the quantum of sentence, it is a case of solitary injury on the nose of Leela Singh and injury on the leg is result of pushing him in the drain. The accused has already suffered agony of trial since long. Therefore, it will not be appropriate to send him back in prison. However, the complainant can be compensated.

For the foregoing reasons, I hereby dismiss the revision with the modification that the sentence awarded against the petitioner is reduced to already undergone without altering the sentence of fine. However, the accused shall deposit Rs. 7,000/- on account of compensation payable to Leela Singh injured before the trial Court within three months, failing which the appeal shall be treated dismissed.

March 22, 2007
gsv

(A.N.JINDAL)
JUDGE